86-1948

Supreme Court, U.S.
FILED
DEC 12 1986
JOSEPH F. SPANIOL, JR.
CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1986

HENRY ANDERSON, Appellant,

V.

OREGON STATE BAR, DONALD W. McEWEN, JANICE M. STEWART, JOSEPH J. HANNA, jr., DEAN P. GISVOLD, ROBERT D. RANKIN, PEGGY S. FORAKER, GENE C. ROSE, ANTHONY YTURRI, CARL BURNHAM, jr., Appellees.

ON APPEAL FROM THE

UNITED STATES COURT OF APPEALS NINTH CIRCUIT

JURISDICTIONAL STATEMENT

Henry Anderson
676 Covey Road
Valley Springs
Ca. 95252
Appellant
(no phone)

24 pp

QUESTIONS PRESENTED

Whether non-elected judges of the U.S. District Court of Oregon have authority to invalidate Acts of Congress through custom, usage and subterfuge?

Whether judges of the Ninth Circuit Court of Appeals have authority to ratify the unconstitutional acts of the District Court?

Whether judges of the U.S. District Court have authority to invalidate Acts of Congress ordering "FREEDOM OF CHOICE" be given parties in Exhibits 1A and 1B?

With no hearings having been held at any time by the District Court Judges, how can those arbitrary, illegal procedures qualify as DUE PROCESS OF LAW & EQUAL PROTECTION OF THE LAWS?

How can defendant Oregon State Bar, an inanimate fictitious creation make any statements contrary to its binding rules?

Whether Judge Panner of the District Court has authority to deprive appellant of the

mandatory protection provisions of FRCP Rule 16?

Whether judges of the U.S. Court of Appeals have authority to overrule prior decisions of 9th Circuit Court of Appeals forbidding coercion of parties by judges forcing parties to use magistrates?

What authnority do defendants have to unbind themselves from the binding commands of Oregon Rev. Stat. Secs. 9.460 & 9.490?

What authority does defendant Donald W. McEwen have to fabricate his sworn & subscribed affidavit based on hearsay, & present it to a court as evidence?

What authority does defendant Carl Burnham have to violate the INVIOLATE provisions of the Oregon State Constitution?

Each of the defendants has taken an oath to support the U.S. Constitution and laws. What authority do they have to ignore and act contrary to that Constitution and those laws?

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OFFICIAL and UNOFFICIAL REPORTS

Exhibits 1A & 1B are copies of the Notice sent to appellant by the Court Clerk showing the "FREEDOM OF CONSENT" ordered by Congress for the benefit of the parties.

Exhibit 2 is a copy of the civil minutes ordered by the anonymous calendar management committee invalidating the Act of Congress by custom & usage & subterfuge of the group acting for the district court judges.

Exhibit 3, is a copy of appellant's objections to the use of the magistrate.

Exhibit 4 is a copy of the order of dismissal signed by the district court judge.

The Order of Oct. 6, 1986, was the final Order of the Appeals Court.

Appellant filed a Notice of Appeal dated October 11, 1986. In researching the laws, appellant found a difference in the format of Notices of Appeal, acting on the difference, appellant revised his Notice of Appeal and sent copies to Court Clerk & defense lawyers.

JURISDICTION

This is a civil controversy, with diversity of citizenship of the parties. The amount in controversy exceeds the statutory minimum. The appeal statute is 28 U.S.C. Sec. 1254.

The defendants acting in conspiracy deprived appellant of his Constitutional rights to Due Process of Law & Equal Protection of the Laws, in civil proceedings in Oregon State Courts. Appellant unable to secure his rights in state courts, filed his actions in Federal Court for deprivation of his Fourteenth Amendment rights to Due Process of Law & Equal Protection of the Laws.

In the District Court action in Portland, Oregon, a puppet creation of the district court was used to invalidate an Act of Congress by means of custom, usage & subterfuge, thereby creating new causes of action involving the district court's illegal actions. The district court deprived Anderson of his rights to Due Process of Law & Equal Protection of the Laws

ordered by Congress in Exhibits 1A and 1B attached to this appeal.

Congress in the particular case ordered complete "FREEDOM OF CHOICE" for the parties, which the district court invalidated by means of custom and usage.

The district court never held any hearings in the action at any time, thereby depriving Anderson of the First Essentials of Due Process of Law. The ratification of those illegal district court acts by the U.S. Court of Appeals, broadened the basic claim of appellant to the use of unconstitutional procedures by the United States Courts.

With diversity of citizenship of the parties, the Erie V Tompkins ruling was the proper standard to use. In that category Oregon Revised Statute 43.220 is used, quote "Impeachment of judicial record. Any judicial record may be impeached & the presumption arising therefrom overcome by evidence of a want of jurisdiction, collusion between

the parties, or fraud in the party offering the record.

From the words of Exhibits 1A and 1B appellant's rights to FREEDOM OF CHOICE were ordered by Congress. Without that voluntary consent being given, the magistrate had no authority to act in the case & perform his illegal acts.

Therefore when Anderson objected to the lack of authority of the magistrate to order Anderson to perform the illegal acts ordered by the magistrate; under ORS 43.220, there was a definite lack of jurisdiction by the magistrate.

The endorsing of the illegal magistrate's acts by the district court without holding any hearings, was unconstitutional. The ratification of those illegal district court acts by the Court of Appeals enlarged the action. The acts of the district court & court of appeals were discrimination under color of law.

The Court of Appeals denied Anderson's appeal on June 19, 1986.

Anderson filed a petition for rehearing,

which was denied by the same judges on October 6, 1986.

Anderson filed a Notice of Appeal on October 14, 1986. Due to the many varieties of format for the Notices of Appeal, Anderson filed a revised version of the Notice of Appeal on November 6, 1986, with service by Certified mail on defendant's lawyers.

The Fifth and Fourteenth Amendments to the United States Constitution apply in this case.

CONSTITUTION PROVISIONS-STATUTES

Article VI. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Exhibit 1A is a copy of the brochure pre-

sented to Anderson by the District Court Clerk. Its title is self explanatory.

Congress in Exhibits 1A and 1B shows that persons using or not using those procedures, had absolute FREEDOM OF CHOICE to use or reject the procedures set by Congress.

> "There can be no question of the power of Congress thus to define & limit the jurisdiction of the inferior courts of the U.S." Lauf v E.G. Shinner & Co. 303 U.S. 323, 330.

It is apparent from that ruling & actions of Congress in creating Exhibits 1A and 1B, the acts were proper exercise of Congressional authority.

> "One cannot ascribe a specific meaning to the term "liberty" for it may encompass any form of freedom of action or choice which is accorded Constitutional recognition by the Court." The function of the Due Process Clause. 116 U. Pa. L. Rev. 1048.

Title 28, U.S.C. Section 636(c) is the statute involved & its use must be voluntary, by the parties to the controversy.

> "A fair trial in a fair tribunal is a basic requirement of Due Process." In re Murchison 348 U.S. 133, 136, 75 S.Ct. 623, 625

Fifth Amendment: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, nor be deprived of life, liberty, or property, without due process of law; . . . .

Fourteenth Amendment: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. Sec. 1983. Civil Action for deprivation of rights.

42 U.S.C. Sec. 1985. Conspiracy to interfere with civil rights.

Appellant in his civil action demanded trial by jury. The anonymous calendar management committee is not an Article III, judgeship & by depriving appellant of his rights to trial by jury the committee acted beyond its legal jurisdiction, if it had any. The district court cannot give or donate its Article III powers to any type of fictitious group. The point to remember is with diversity of citizenship & the Erie v Tompkins ruling, the laws of Oregon are very relevant to the original state court action & also to this District Court action.

Oregon State Constitution, Article I, Section 17. Jury trial in civil cases. "In all civil cases the right of Trial by Jury shall remain inviolate."

Anderson was never accused of crime.

Anderson was never tried for crime.

Anderson was never convicted of crime.

It is obvious that any state court proceeding was civil in nature and procedure. Anderson demanded Trial by Jury, but was cheated out of it

by the conspiracy of defendants and State Court personnel. Defendant Carl Burnham jr., does not have authority to violate the inviolate provisions of the Oregon State Constitution. There is no person in Oregon who has authority to grant Burnham privilege to violate the inviolate. A copy of Burnham's oath as a lawyer, shows what he has promised to do.

> Oregon Revised Statute 42.300. Parties to written instrument not to deny facts recited therein. Except for the recital of a consideration, the truth of the facts recited from the recital in a written instrument shall not be denied by the parties thereto, their representatives or successors in interest by a subsequent title. That law does not give any room for alibis or excuses.

That law cited above, applies to each of the defendants, since they have all had to swear to use & obey the Oregon State Constitution.

They have all had to swear to use and obey the U.S. Constitution and laws, including the "FREEDOM OF CHOICE" shown by Exhibts 1A & 1B.

> "A fair trial in a fair tribunal is a basic requirement of due process." In re Murchison 349 U.S. 133, 136, 75 S.Ct. 623, 625.

Anderson has objected to the discrimnination

by the District Court & the Court of Appeals in failing to hold any hearings in this case.

The District Court has in bad faith, wrongfully & unreasonably by default, allowed and encouraged its puppet creation, the anonymous calendar management committee to control the business of the court, and with that control the illegal acting committee has in reality performed the actions which are proper proceedings for Article III Judges.

The District Court has no authority to delegate its obligations and powers to any substandard group of persons.

There is no provision in the United States Constitution for Article III judges to create their own system of government and law by decree or rulings.

Appellant was deprived of his Constitutional rights to "Due Process of Law and Equal Protection of the Laws" by illegal acts of Oregon District Court and endorsement by the Ninth Circuit Court of Appeals.

STATEMENT OF THE CASE

The original case was based upon conspiracy by defendants to cheat Anderson out of his U.S. Constitutional rights, privileges, and immunities and his life's savings. Appellant was the victim in Oregon Courts. Being unable to secure his rights in Oregon Courts appellant filed his civil action in the United States District Court.

The district court using its puppet creation, an anonymous calendar management committee, had the committee arbitrarily impose a person they misrepresented as a qualified judge to handle the civil action, the bogus judge signed himself as a magistrate in one of his papers. Anderson was outraged and shocked. A dirty trick like that was possible in state court, BUT, in a Federal Court where truth is usually used in the proceedings, it was a ghastly crime. When the fraud became known to Anderson, he objected immediately to the district court.

The District Court Clerk sent copies of Exhibits 1A and 1B to Appellant, but Anderson never requested or accepted the use of the magistrate. Notwithstanding that fact the court imposed the bogus judge on Anderson. That bogus judge never held any hearings in the case. That of course deprived Anderson of the first essntials of Due Process of Law.

> In "Constitutional Law, 2 ed. by Nowak, Rotunda, & Young, p. 555, the authors in speaking of the essential elements of "Due Process of Law, include item (2) a neutral decision maker, (3) an opportunity to make an oral presentation to the decision maker, (4) an opportunity to present evidence or witnesses to the decision maker, (5) a chance to confront and cross examine witnesses or evidence to be used against the individual.

With no hearings having been held at any time by the District Court Judges, none of these basic safeguards were in operation.

> "Not only is a biased decision maker constitutionally unacceptable but "our system of laws has always endeavored to prevent the probability of unfairness." In re Murchison 349 U.S. 136.

One definite rejection of the use of the

bogus judge should be ample for any normal person. The district court kept pushing the bogus judge on to appellant.

> "Bar to appeal where party fails to file written objections to magistrate's report does not apply where party is not informed by magistrate that his objections must be filed within 10 days after service of copy of magistrate's report is made upon him." Deloney v Estelle (1982 CA5 Tex.) 679 F. 2d 372.

Appellant never received any notice of a 10 day time limit from the district court or the bogus judge.

The Court of Appeals members ignored previos rulings of the 9th Circuit Courts, regarding the imposition of magistrates.

> Alaniz v California Processors, Inc.(1982 CA9 Cal)690 F2d 717. Magistrate may exercise jurisdiction pursuant to 28 USCS Sec 636 (c)(1) only where he is specially designated to exercise such jurisdiction by district court or courts he served & where parties consent without coercion by judge or magistrate to magistrate's authority to hear case and enter judgment.

The bogus judge became upset when appellant refused the KANGAROO court proceedings of the bogus judge & the bogus judge's rulings, show that biased attitude.

The Court of Appeals members ignored the facts that the district court had never held any hearings in the case at any time. That fact shows discrimination by the district court & Court of Appeals against the appellant, Anderson.

Oregon Revised Statute 9.010 (2) in part, The Oregon State Bar has perpetual succession & a seal & it may sue and be sued.

United States v Oregon State Bar 385 F. Supp. 507 (1974) The Oregon State Bar was sued by the Federal Government. The U.S. showed the state bar was a state created monopoly & what the individual lawyers billed their customers for & got, they kept. The bar in common with all other state created monopolies tries to claim immunity for its illegal acts. The court didnot swallow the instrumentality hokum peddled by the Bar in that civil suit.

Garvin v Matthews 193 Wash. 152, 74 P.2d 990, 992. "The doctrine of "alter ego" does not create assets for or in corporation, but it simply fastens liability on the individual who uses the corporation merely as instrumentality in conducting his own personal business, and that liability springs from fraud perpetrated not on the corporation, but on third persons dealing with corporation."

Defendant Oregon State Bar being an inanimate creation cannot make any statements

altering or unbinding its binding rules that are supposed to apply equally to all defendants, all state bar members.

Defendant McEwen, a lawyer & state bar member, knew that he was incompetent to make & subscribe to his sworn affidavit, in as much his information was all based upon hearsay, & as in most cases of hearsay the statements do not agree with each other.

Appellant in his Complaint alleged the conspiracy between defendants, to cheat appellant out of his civil & Constitutional rights to Due Process of Law & Equal Protection of the Laws & Freedom of Choice.

> "No allegations of racial or class-based invidiously discrimnatory animus were required to establish cause of action under provision of this section barring conspiracies to interfere with administration of justice in federal courts. Kush v Rutledge, (1983) 103 S. Ct. 1483.

Appellant in his Complaint pointed out, the State of Oregon had no standards of meaning, practice or procedure of the words and phrases that were used to cheet appellant out

of his Constitutional rights, privileges & immunities,& his life's savings.

> A statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning & differ as to its application, violates the first essentials of Due Process of Law. Connaly v General Const. Co. (1926) 269 U.S. 385

> "Not only does a vague statute run the risk of entrapping the innocent, it impermissibly delegates basic policy matters to police men, judges & juries on an ad hoc & subjective basis, with the attendant dangers of arbitrary & discrimnatory application. Grayned v Rockford (1972) 408 U.S. 104

The State of Oregon does not have & did not have any standards of meaning & practice and procedure for the vague term specific performance & from the above case citations, judges on an ad hoc subjective basis arbitrarily discriminated against appellant in the original state court proceedings & cheated appellant of his Constitutional rights to Due Process of Law and Equal Protection of the laws.

It is obvious with no standards of meaning or application, it would be impossible to apply "Due Process of Law."

THE ISSUES ARE SUBSTANTIAL

United States Constitution Article I, Section 1. All legislative powers herein granted shall be vested in a Congress of the United States.

United States Constitution Article VI, Section 2. This Constitution, and the Laws of the United States which shall be made in pursuance thereof; . . . shall be the Supreme Law of the Land; . . .

There is no question about the authority of Congress to pass 28 U.S.C. 636 (c).

Congress set standards of procedure to be used in applying of that law. Congress in Exhibits 1A and 1B, ordered that "FREEDOM OF CHOICE" was given to the people to use or not use a magistrate. Appellant Anderson refused to ask for or accept the use of any magistrate in the controversy. It is absurd for the district court to invalidate an Act of Congress by custom, usage & subterfuge. It is illegal & unethical.

United States Courts are supposed to be based upon & using truth in their proceedings. For the district court judges to misrepresent a magistrate as a qualified U.S. judge, shows bad faith & a lack of honesty by the individual judges.

Those judges have no authority to raise any questions regarding Congressional Acts, nor alter or deprive people of the benefits ordered by Congress.

This United States Supreme Court should not require any briefing or arguing on this appeal, since the Act of Congress is clear and this Supreme Court has the authority to order the district court judges to obey the laws passed by Congress.

Exhibits 1A and 1B were given to Anderson by the Oregon District Court Clerk, & the language used in those exhibits is clear & positive. The case, Alaniz v California Processors, Inc.,(1982 CA9 Cal.) 690 F2d 717 shows what the 9th Cir. Appeals Ct. decided.

CONCLUSION

The United States Constitution and laws stress the need for truth. All important executives & judges have to swear to an oath of office to act in accordance with that Constitution and those laws.

Congress had the authority to pass laws that regulated the procedures to be used in this civil case, all voluntary acts.

It is absurd & unethical for the puppet creation of the district court, the anonymous calendar management committee to act in defiance of Congress & impose that incompetent magistrate upon appellant.

For the fundamental reasons of laws passed by Congress being the Supreme Law of the Land, this Court should reverse the illegal actions performed below and grant this Appeal.

Respectfully submitted

Henry Anderson

Henry Anderson-Appellant
Pro se.

Supreme Court, U.S.
DEC 12 1986
JOSEPH [illegible] JR.
CLERK

86-1948

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1986

HENRY ANDERSON, Appellant,

V.

OREGON STATE BAR, DONALD W. McEWEN, JANICE M. STEWART, JOSEPH J. HANNA, jr., DEAN P. GISVOLD, ROBERT D. RANKIN, PEGGY S. FORAKER, GENE C. ROSE, ANTHONY YTURRI, CARL BURNHAM, jr., Appellees.

ON APPEAL FROM THE

UNITED STATES COURT OF APPEALS NINTH CIRCUIT

APPENDIX

Henry Anderson
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Appellant
(no phone)

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

Civil Docket No. 86 3591

HENRY ANDERSON,

Plaintiff-Appellant,

VS

OREGON STATE BAR, et al.,

Defendants -Appellees,

NOTICE OF APPEAL

Plaintiff-Appellant, HENRY ANDERSON, gives NOTICE OF APPEAL from the Order entered by KOELSCH, FERGUSON, & REINHARDT, Circuit Judges, on October 6, 1986 denying Appellant's petition for en banc rehearing in the above titled civil case.

Certified mail receipt # P 140 890 569 dated October 14, 1986. Received by the Appeals Court Clerk, October 16, 1986.

Service was made by certified mail on defense counsel on October 24, 1986.

By Henry Anderson
Henry Anderson-Appellant.

NOTICE OF APPEAL

Notice is hereby given that HENRY ANDERSON plaintiff above named, hereby appeals to the Supreme Court of the United States from the final Order entered by KOELSCH, FERGUSON & REINHARDT Circuit Judges, in the above referenced civil case.

This Appeal is taken pursuant to 28 U.S.C. Section 1254.

This revised version of Notice of Appeal was mailed by Certified Mail #P 140 890 622 dated Nov. 6, 1986 to theclerk of the Appeals Court and received Nov. 13, 1986.

Service was also made by Certified mail on defense counsel, on Nov. 6, 1986.

By: Henry Anderson
Henry Anderson/plaintiff
Pro Se.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HENRY ANDERSON Plaintiff-Appellant, VS. OREGON STATE BAR, et al., Defendants-Appellees	No. 86-3591 DC# CV-85-1145 Oregon ORDER

Before: KOELSCH, FERGUSON and REINHARDT,

Appellant's petition for rehearing en banc is denied. The district court referred this matter to the magistrate under 28 U.S.C. Sec. 636(b)(1)(B). Appellant's consent was not required.

(there is no signature of any judge or clerk to this order)

The Court Clerk's Filing date stamp shows Oct. - 6 -1986.

UNITED STATES DISTRCT COURT FOR THE

DISTRICT OF OREGON

HENRY ANDERSON, Plaintiff, VS OREGON STATE BAR ET AL., Defendants.	Civil No. 85-1145 NOTICE OF APPEAL.

Notice is hereby given that HENRY ANDERSON, plaintiff above named, hereby appeals to the United States Court of Appeals from the Order of Dismissal and judgment dated 24th day of January, 1986.

Dated February 14th, 1986.

By Henry Anderson
Henry Anderson-plaintiff
Pro Se.

Service was made on the defense counsel;

Service was made on the Court Clerk by Certified Mail No. P 293 784 824, dated February 14, 1986.

UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF OREGON

Henry Anderson,

Plaintiff,

V.

Oregon State Bar, et al.

Defendants.

Civil No. 85-1145

ORDER

After a de novo review, IT IS ORDERED that the action is dismissed.

Dated this 24th day of January, 1986.

(S) Edward Leavy

United States District Judge

Dated February 7, 1987.

Henry Anderson

Henry Anderson

86-1948 (3)

Supreme Court, U.S.
FILED
JAN 20 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1986

HENRY ANDERSON, Appellant,

v.

OREGON STATE BAR, DONALD W. McEWEN, JANICE M. STEWART, JOSEPH J. HANNA, JR., DEAN P. GISVOLD, ROBERT D. RANKIN, PEGGY S. FORAKER, GENE C. ROSE, ANTHONY YTURRI, CARL BURNHAM, J.R., Appellees.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

OREGON STATE BAR'S MOTION TO DISMISS OR AFFIRM

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25pp

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Michelsen v. Moore-McCormack Lines, Inc., 429 F.2d 394 (2d Cir. 1970) 10

United States v. Raddatz, 447 U.S. 667 (1980), reh. denied 448 U.S. 916 (1980) 12

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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1986

HENRY ANDERSON, Appellant,

v.

OREGON STATE BAR, DONALD W. McEWEN, JANICE M. STEWART, JOSEPH J. HANNA, JR., DEAN P. GISVOLD, ROBERT D. RANKIN, PEGGY S. FORAKER, GENE C. ROSE, ANTHONY YTURRI, CARL BURNHAM, J.R., Appellees.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

OREGON STATE BAR'S MOTION TO DISMISS OR AFFIRM

Appellee Oregon State Bar, pursuant to Rule 16.1, Rules of the Supreme Court of the United States, moves the Court for an order dismissing the appeal in this case on the ground that the case is not within the court's appellate jurisdiction or, in the alternative, affirming the decision of the United States Court of Appeals for the Ninth Circuit on the ground that it is manifest that the questions on which the decision of the cause depends are so

unsubstantial as not to need further argument.

DECISIONS BELOW

On January 3, 1986 United States Magistrate George E. Juba of the United States District Court for the District of Oregon entered his Findings and Recommendation that this action should be dismissed (Appendix A). On January 24, 1986 United States District Judge Edward Leavy, after de novo review, entered an order dismissing the action (Appendix B) and a judgment of dismissal (Appendix C).

On June 19, 1986 the United States Court of Appeals for the Ninth Circuit issued an order granting appellee's motion for summary affirmance (Appendix D). On October 6, 1986 that court issued its order denying appellant's petition for rehearing en banc (Appendix E). None of the above decisions has been published.

APPELLEE'S STATEMENT OF THE CASE

Appellant filed an action in the United States District Court for the District of Oregon, seeking damages from the Oregon State Bar and some of its members for alleged injuries arising out of prior litigation. The complaint was filed on July 1, 1985. On that date the district court issued its order setting a completion date for discovery and ordering that a pretrial order be lodged by November 28, 1985. On September 6, 1985 District Judge Panner ordered that the case would be assigned to Magistrate Juba for all pretrial matters. The order stated that because appellant had not consented to the use of a magistrate, "§ 636(b)(1)(b) decisions by the Magistrate will be by Findings and Recommendations rather than by order." On October 10, 1985 appellant filed a notice of objections to use of a magistrate.

On December 10, 1985 Magistrate Juba issued an Order to Show Cause why the action should not be dismissed for want of prosecution because no pretrial order had been lodged. On December 27, 1985 appellant filed his "response" to that order, in which he refused to show cause because the term "pretrial order" was ambiguous and because he objected to the use of a magistrate. On January 3, 1986 Magistrate Juba filed his Findings and Recommendation that the action should be dismissed for want of prosecution. On January 24, 1986 District Judge Leavy, after de novo review, ordered that the action be dismissed. Judgment of dismissal was entered that same date.

Appellant appealed to the United States Court of Appeals for the Ninth Circuit. Appellee Oregon State Bar then filed with that court a motion for summary affirmance which was granted by order of June 19, 1986 (after the parties had filed

briefs with the court). The summary affirmance was granted on the ground that the district court did not abuse its discretion in dismissing the case for lack of prosecution in light of appellant's refusal to make any meaningful response to the order to show cause. Appellant then petitioned for rehearing en banc. The United States Court of Appeals for the Ninth Circuit, by order of October 6, 1986 denied that petition on the stated ground that because the case had been referred to a magistrate under 28 U.S.C. § 636(b)(1)(b), appellant's consent to the use of a magistrate was not required.

ARGUMENT IN SUPPORT OF MOTION TO DISMISS

This Case Is Not Within This Court's Appellate Jurisdiction; Review, if Available at All, Is Only Available by Writ of Certiorari.

This Court has jurisdiction to entertain direct appeals from decisions of the United States Courts of Appeals in

cases in which the United States is a party and the Court has declared an Act of Congress unconstitutional, 28 U.S.C. § 1252, or in any case in which the Court of Appeals has held a state statute to be invalid. 28 U.S.C. § 1254(2). In this case the United States is not a party and the Court of Appeals has not invalidated either an Act of Congress or a state statute. It simply held that the District Court did not abuse its discretion by dismissing the action when appellant refused to file a pretrial order and that limited use of a magistrate in this case was proper.

If review by this Court is available at all it is by writ of certiorari rather than by direct appeal. 28 U.S.C. § 1254(1). However, for the reasons discussed below in support of appellee's alternative motion to affirm, certiorari should not be granted in this case.

ARGUMENT IN SUPPORT OF MOTION TO AFFIRM

1. No Further Argument Is Required; the Court of Appeals' Decision Should Be Affirmed.

It is not clear from appellant's jurisdictional statement just what questions he wishes to pursue on appeal to this Court. On the record summarized above, however, it is clear that only two issues could possibly be presented. The first is whether the Court of Appeals erred in holding that the District Court did not abuse its discretion when it dismissed the case for want of prosecution. The second is whether the Court of Appeals erred in holding that appellant's consent to the use of a magistrate was required under the circumstances of this case. As shown below, both rulings were clearly correct.

2. The Court of Appeals Correctly Held that the District Court Did Not Abuse Its Discretion in Dismissing the Case for Want of Prosecution.

Appellant was notified at the time he filed his complaint that a pretrial order would have to be lodged by November 28, 1985. On December 10, 1985 he was ordered to show cause why that had not been done and was notified, by the terms of that order, that if he did not show cause the action would be dismissed. He refused to show cause.

Dismissal of the action under those circumstances is within the District Court's authority, and its action will be upheld unless it has abused its discretion:

> ". . . when circumstances make such action appropriate, a District Court may dismiss a complaint for failure to prosecute even without affording notice of its intention to do so or providing an adversary hearing before acting. Whether such an order can stand on appeal depends not on power but on whether it was within the permissible range

> of the court's discretion." Link v. Wabash Railroad Company, 370 U.S. 626, 633 (1962).

In Link this Court held that it was not an abuse of discretion to dismiss a case when the plaintiff's attorney, without adequate excuse, did not appear for a scheduled pretrial conference and there was a previous history of delay. The District Court judge, in that case, acted without advance notice and without affording the plaintiff any opportunity to respond to the proposed dismissal of the action. In this case, by contrast, the appellant was notified that the action could be dismissed because of his failure to file a pretrial order and was given the opportunity, which he refused, to show good cause for his failure to do so. He did not ask for additional time, but simply made it clear that he did not intend to comply with the court's order because he believed it had been made without authority. As shown below, however, the order to show cause was

authorized and appellant was not entitled to ignore it.

Dismissal for impeding the progress of a case by deliberate refusal to obey an order of the court has frequently been held not to be an abuse of discretion. See, e.g., Kabbe v. Rotan Mosle, Inc., 752 F.2d 1083 (5th Cir. 1985) (failure to comply with court order to appear for deposition); Mertens v. Hummell, 587 F.2d 862 (7th Cir. 1978) (refusal to comply with discovery orders); Michelsen v. Moore-McCormack Lines, Inc., 429 F.2d 394 (2d Cir. 1970) (refusal to proceed to trial after application for continuance denied); Hooper v. Chrysler Motors Corp., 325 F.2d 321 (5th Cir. 1963), cert. denied 377 U.S. 967 (1964) (same); Blue Mountain Constr. Co. v. Werner, 270 F.2d 305 (9th Cir. 1959), cert. denied 361 U.S. 931 (1960) (plaintiff refused to proceed further after adverse ruling on motion and failed to appear at pretrial conference). In his brief to the

United States Court of Appeals for the Ninth Circuit, appellant made no attempt to show that dismissal was an abuse of discretion in this case.

3. The Court of Appeals Correctly Held that Use of a Magistrate To Hear Pretrial Matters and To Make Findings and Recommendations Is Authorized by Law.

District Judges are authorized by 28 U.S.C. § 636(b) to refer pretrial matters to a magistrate. With respect to certain dispositive pretrial matters, § 636(b)(1)(B) provides that the magistrate shall submit proposed findings and recommendations to the district judge. Section (b)(1) further provides for an opportunity for any party to file objections to those findings and recommendations and for de novo review by the district judge of any portion to which objection is made.

In this case appellant filed no objections. District Judge Leavy nevertheless conducted a de novo review before adopting the magistrate's findings and recommendation. The procedure which is authorized by statute and which was followed in this case does not violate appellant's rights. United States v. Raddatz, 447 U.S. 667 (1980), reh. denied, 448 U.S. 916 (1980).

CONCLUSION

The Court of Appeals was clearly correct when it affirmed the District Court's dismissal of this case for want of prosecution. Appellant refused to file a pretrial order within the time allowed by the District Court and refused to show reasonable cause why he had not done so. Because he did not consent to the use of a magistrate, the District Court ordered that the magistrate would make only findings and recommendations, not orders, on dispositive matters. The District Court reviewed de novo the recommendation of the magistrate

that the action be dismissed. There was no abuse of discretion and no violation of appellant's constitutional rights.

This appeal should be dismissed on the ground that it is not within this Court's appellate jurisdiction. Moreover, no questions of substance justifying plenary review by this Court are presented on the record. For the reasons stated above, the court should dismiss the appeal and refuse to issue a writ of certiorari or, in the alternative, should affirm without further argument.

Respectfully submitted,

SCHWABE, WILLIAMSON,
WYATT, MOORE & ROBERTS
RIDGWAY K. FOLEY

By: _____
Ridgway K. Foley, Jr.,
P.C.
Of Attorneys for
Appellee

APPENDIX A

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

HENRY ANDERSON,	)	
	)	
Plaintiff,	)	Civil No. 85-1145-JU
	)	
v.	)	
	)	FINDINGS AND
OREGON STATE BAR, et al,	)	RECOMMENDA-TIONS
	)	
Defendant.	)	

HENRY ANDERSON
676 Covey Road
Valley Springs, CA 95252

Pro Se

HENRY C. WILLENER
1600-1800 Pacwest Center
1211 S.W. Fifth Avenue
Portland, Oregon 97204

Attorneys for Defendant

JUBA, Magistrate:

By order dated December 10, 1985, plaintiff was ordered to show cause why the action should not be dismissed for want of prosecution.

This order was based on plaintiffs failure to lodge a pretrial order on or before November 28, 1985 as ordered.

Plaintiff filed a "Response to Show Cause Order" wherein he declines to respond.

The action should be dismissed.

Dated this 2 day of January, 1986.

/s/ George E. Juba
United States Magistrate

APPENDIX B

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

HENRY ANDERSON,	)	
	)	
Plaintiff,	)	Civil No. 85-1145-JU
	)	
v.	)	—
	)	ORDER
OREGON STATE BAR, et al,	)	
	)	
	)	
Defendant.	)	

After a de novo review, IT IS ORDERED that the action is dismissed.

Dated this 24th day of January, 1986.

/s/ Edward Leavy
United States District Judge

APPENDIX C

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

HENRY ANDERSON,	)	
	)	
Plaintiff,	)	Civil No.
	)	85-1145-JU
v.	)	
	)	JUDGMENT
OREGON STATE BAR, et al,	)	
	)	
	)	
Defendant.	)	

Based on the record,

IT IS ORDERED AND ADJUDGED that this action is dismissed.

Dated this 24 day of January, 1986.

/s/ Robert Christ
Clerk of Court

APPENDIX D

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HENRY ANDERSON,	)	
	)	
Plaintiff-Appellant,	)	No. 86-3591
	)	
vs.	)	DC# CV-85-1145-LE
	)	
OREGON STATE BAR, et al,	)	Oregon (Portland)
	)	
Defendants-Appellees.	)	ORDER

Before: KOELSCH, FERGUSON and REINHARDT, Circuit Judges

Appellee's motion for summary affirmance is granted. The district court did not abuse its discretion in dismissing the case for lack of prosecution in light of appellant's refusal to make any meaningful response to the order to show cause. Ash v. Cvetkov, 739 F.2d 493 (9th Cir. 1984). The judgment entered January 28, 1986, is affirmed.

APPENDIX E

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HENRY ANDERSON,	)	
	)	
Plaintiff-Appellant,	)	No. 86-3591
	)	
vs.	)	DC# CV-85-1145-LE
	)	
OREGON STATE BAR, et al,	)	Oregon (Portland)
	)	
Defendants-Appellees.	)	ORDER

Before: KOELSCH, FERGUSON and REINHARDT, Circuit Judges

Appellant's petition for rehearing en banc is denied. The district court referred this matter to the magistrate under 28 U.S.C. § 636(b)(1)(B). Appellant's consent was not required.

86 1948

Supreme Court, U.S.
FILED
FEB 7 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1986

HENRY ANDERSON, Appellant,

V.

OREGON STATE BAR, DONALD W. McEWEN,
JANICE M. STEWART, JOSEPH J. HANNA, jr.,
DEAN P. GISVOLD, ROBERT D. RANKIN,
PEGGY S. FORAKER, GENE C. ROSE,
ANTHONY YTURRI, CARL BURNHAM, jr.,
Appellees.

APPELLANT"S BRIEF OPPOSING
APPELLEES MOTION TO DISMISS OR AFFIRM

Henry Anderson
676 Covey Road
Valley Springs
Ca. 95252
Appellant
(no phone)

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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1986

HENRY ANDERSON, Appellant,

V.

OREGON STATE BAR, DONALD W. McEWEN, JANICE M. STEWART, JOSEPH J. HANNA, jr., DEAN P. GISVOLD, ROBERT D. RANKIN, PEGGY S. FORAKER, GENE C. ROSE, ANTHONY YTURRI, CARL BURNHAM, jr., Appellees.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

APPELLANT HENRY ANDERSON'S BRIEF OPPOSING APPELLEES MOTION TO DISMISS OR AFFIRM

Appellant Henry Anderson pursuant to Rule 16.5, Rules of the Supreme Court of the United States, moves the Court for an Order dismissing Appellees motion to dismiss or affirm, on the grounds that the Rules 10, 11 and 12, of the Rules of the Supreme Court set forth the Jurisdiction of this Court in hearing Civil Appeals from the Federal Courts of Appeal.

U. S. Constitution Article VI, Section 2, states, This Constitution, and

> the Laws of the United States which shall be made in Pursuance thereof. . . under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, . . ."

When Congress passed Title 28, U.S.C. Section 636(c), that law became part of the Supreme Law of the Land, and all judges were bound to obey that law. The printed form supplied by the Oregon Court Clerk to appellant states in page 1, in the second paragraph thereof, quote, "You

> should be aware that your decision to consent or not to consent to the referral of your case to a United States magistrate "MUST BE ENTIRELY VOLUNTARY". Only if all the parties to the case consent to the reference to a magistrate will any judge or magistrate be informed of your decision."

Appellant, Anderson never requested or accepted the use of a magistrate.

> Alaniz V California Processors, Inc. (1982 CA9 Cal)690 F2d 717. Magistrate may exercise jurisdiction pursuant to 28 USCS Sec 636 (c)(1) only where he is specially designated to exercise such jurisdiction by district court or courts he served & where parties consent with out coercion by judge or magistrate to magistrate's authority to hear case & enter judgment.

Appendix A-1, a copy of the form sent by the Oregon District Court Clerk to the appellant ha: the title, "NOTICE OF RIGHT TO CONSENT TO THE EXERCISE OF CIVIL JURISDICTION BY A MAGISTRATE AND APPEAL OPTION."

Appellant didnot consent to the use of a magistrate at any time.

> RIGHT-def. As a noun, and taken in an abstract sense, means justice, ethical correctness, or consonance with the rules of law or the principles of morals. As an adjective, the term "right" means just, morally correct, consonant with ethical principles or rules of positive law. It is the opposite of wrong, unjust, illegal.
>
> A power, privilege, or immunity guaranteed under a constitution , statutes.

Appendix A-2, a copy of the consent form sent by the District Court Clerk to appellant Anderson, which was never used.

Appendix A-3, copy of the CIVIL MINUTES, of the Oregon District Court. Note the deliberate misrepresentation of fact and law by the Calendar Management Committee.

U.S. Constitution Article III, Section 1. The judicial Power of the United States,

> shall be vested in one supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.
>
> U.S. Constitution, Article I, Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

There is no question about the Power of Congress to make & pass laws & from Constitution Articles III & VI, those laws have to be obeyed by all the courts.

> In Lauf v E.G. Shinner & Co. 303 U.S. 323, 330 (1938) the Court ruled, "there can be no question of the power of Congress thus to define and limit the jurisdiction of the inferior courts of the United States."

District courts have no authority to invalidate ACTS OF CONGRESS by custom, usage or subterfuge, or other devices.

Congress in that Appendix A-1 granted the rights of "FREEDOM OF CHOICE" to the people & the courts do not have authority to invalidate that PROCESS ordered by Congress.

This case has diversity of citizenship of the parties & Erie v Tompkins 304 U.S. 64 means Oregon State Constitution & laws apply in

this case. The State of Oregon doesnot use magistrates or recognize their use.

> Oregon Revised Statute 43.220 Impeachment of judicial record. Any judicial record may be impeached & the presumption arising therefrom overcome by evidence of a want of jurisdiction, collusion between the parties, or fraud in the party offering the record.

Congress in Appendix A-1, stated in order for the magistrate to have jurisdiction, the parties had freedom of choice to grant it.

The basic issues in this civil case are Civil Rights, DUE PROCESS OF LAW, Congress as the law making body established the process that was due in this case. Deprivation of DUE PROCESS OF LAW is one of the major civil rights issues presented to this Court. This Court has jurisdiction in those classes of cases.

> In Cohens V Virginia, 19 U.S. (6 Wheat) 264, 404 (1821) Chief Justice Marshall explained: It is most true, that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction if it should . . ., We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.

The essential guarantee of the due process clause is that of fairness. The procedure must be fundamentally fair to the individual in the resolution of the factual and legal basis for court actions, which deprive him of life, liberty or property. FREEDOM OF CHOICE guaranteed appellant by Congress is part of that LIBERTY and that DUE PROCESS.

> In re Murchison, 349 U.S. 133,136 (1965) the Court held that "a fair trial in a fair tribunal is a basic requirement of due process."

It is a contradiction in terms to claim a fair tribunal for a court (Oregon Dist. Ct) which fails to obey the laws passed by Congress & deprives appellant of the EQUAL PROTECTION of those laws.

In this case it is the abuse of discretion by the judges of the Oregon Dist. Ct. that has invalidated by custom & usage & subterfuge the Act of Congress.

> In United States V Carolene Products Co. 304 U.S. 144 (1938) The Court said where the legislative judgment is drawn in question,(the inquiry) must be restricted to the issue whether any state of

> facts either known or which could reasonably be assumed, affords support for (the legislation).

Id. The Court has continued to emphasize that substantive due process analysis was available to protect an individual's civil rights.

The basic U.S. Constitutional fact of Equal Protection of the Laws, is the fact of fairness the Acts of Congress have tried to prove this. Then for the Oregon court to discriminate against appellant & deprive him of the protection of the laws passed by Congress is not fairness

> People V Jacobs, 27 Cal. App.3d 246. The Constitutional guarantee of "equal protection of the laws" means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in like circumstances in their lives, liberty, property, and in their pursuit of happiness.

> Pinkerton V Farr, W.Va. 220 S.E.2d 682,687 "Aside from all else, "due process" means fundamental fairness."

> U.S. v Smith, D.C. Iowa, 249 F. Supp 515, 516. The concept of "due process of law" as it is embodied in Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial relation to the object being sought.

ARGUMENT OPPOSING MOTION TO DISMISS

Appendix A-1 is an exact copy of the legal rights created by Congress for all the people including appellant. Those rights include the liberty of "FREEDOM OF CHOICE" & that was entirely voluntary by the parties.

Appendix A-2, is an exact copy of the legal form showing the consent or choice made by the parties in the case. If the form is completed it was to be sent to,

Robert M. Christ, Clerk
United States District Court for
the District of Oregon
516 United States Courthouse
620 S.W. Main Street
Portland, Oregon 97205.

Appellant never accepted or filed that consent form or sent it to the Clerk.

Appendix A-3, is an exact copy of the CIVIL MINUTES of the Oregon Court which deliberately misrepresents fact & law & arbitrarily deprives appellant of his CIVIL RIGHTS. It inflicts a legal wrong on the appellant. It is intentional fraud.

> In Marbury v Madison, 5 U.S. (1 Cranch) 137 (1803) Chief Justice Marshall said, "the essence of civil liberty" required a legal remedy for a legal wrong. Since the government of the United States is one "of laws and not of men" it must grant a remedy for violation of vested legal rights."

The District Court arbitrarily in bad faith deprived appellant of the liberty of "FREEDOM OF CHOICE" ordered by Congress. The deprivation also deprived appellant of the "DUE PROCESS" ordered by Congress, and the deprivation also deprived appellant of "EQUAL PROTECTION OF THE LAWS".

With the basic deprivations & misrepresentations of fact & law by the judges it is an insult to the concept of fairness. There were no hearings, just arbitrary acts by incompetent persons in the Oregon court. A travesty on justice, it was not based on law, but the prejudice of the judges.

The Supreme Court in various rulings claims to protect the people from the illegal acts of the other branches of the government, BUT who is going to protect appellant from the arbitrary acts of the courts?

It is not fundamental fairness to allow Acts of Congress to be invalidated by custom & usage of the Oregon District Court. It is deliberate misrepresentation of fact and law and shows a bad faith intention.

This Supreme Court has jurisdiction to act in this Appeal & Order the court below to obey the laws and procedures ordered by Congress in Appendix A-1 and A-2.

ARGUMENT OPPOSING MOTION TO AFFIRM

1. Further Argument Is Required; the Court of Appeals' Decision Should Be Reversed.

Courts of Appeal are supposed to know & use the laws and the Acts passed by Congres.

This Appeal gives opportunity to demonstrate by action the prior Court rulings that the United States is a land governed by laws and not by men.

The Court of Appeals ruling is outright discrimination, it ignores the complete absence of any court hearings & deprivation of "DUE PROCESS OF LAW & EQUAL PROTECTION

OF THE LAWS" by the Oregon judges in the appellant's action in that court.

Nothing ir the Constitution or in the basic judicial iunction gives federal judges a claim to superiority in determining the reasableness of "Congressional Freedom of Choice" legislation.

The Supreme Court claims to be using a "strict scrutiny" standard for making an independent determination of the legality of laws which affect the "fundamental rights" of individuals under the Constitution.

BUT what kind of standards does the Court use when it is called upon to review the invalidation of Acts of Congress by judges acting through custom & usage and deceit?

Where does the victim go for protection and restoration of his Constitutional Rights?

In a nation founded upon written laws, the laws are there, why were they not used? "DISCRIMINATION", plain outright prejudice by the supposedly neutral, impartial courts.

CONCLUSION

Appellees' in their motion to dismiss or affirm, have stated in vague terms part of the conspiracy to deprive appellant of his U.S. Constitutional Rights, privileges and immunities. Appellant will tie in the various parts of the conspiracy citing various documents by title & if possible court docket number.

Appellant in filing his civil action in the district court, had the CONSTITUTIONAL Right, to have that case heard by an Article III federal judge.

Appellant was deprived of his RIGHTS by a conspiracy of court personnel & defendants to impose that incompetent magistrate on the appellant, contrary to law & misrepresenting him as a duly qualified judge.

The Court Clerk sent appellant a printed brochure, that contained the fraudulent promises made by the court, that appellant's FREEDOM OF CHOICE was entirely voluntary.

Appendix A-1 is a copy of those false promises made by the district court to the appellant. The key words being, "must be entirely voluntary".

Appendix A-2 is a copy of the consent page of that printed brochure of the court. Appellant never signed or accepted that consent form. The consent form is false,

Appendix A-3 is a copy of civil minutes, made by the anonymous calendar management committee, which is factually & legally misrepresentative & designed to mislead appellant. An outright, bad faith fraudulent document designed to deprive appellant of his U.S. Constitutional Rights,Privileges & Immunties. It was forced upon appellant. The word "judge" in it is totally false.

The person named juba, is an incompetent magistrate. Appellant sent a written objection CR 31, to having that incompetent man forced upon appellant. That action was illegal and the bogus judge had no jurisdiction

The Appeals Court joined the conspiracy of the district court & defendant's, when the Appeals Court contradicted the terms & provisions of Appendix A-1.

It is highly unusual for the reviewing court to ignore the Constitution on matters of public rights and public policy.

Appellees fail to cite any documents of the district court, that contain any notice or mention of time limitations for objections to be made by parties involved in the controversy.

Appellees fail to cite or take note that with the diversity of citizenship of the parties; many issues relating to Oregon Laws were ignored by the lower courts & a lack of jurisdiction is a relevant objection in this case. Appellant's Appeal should be granted and the case remanded for proper hearing according to the U.S. Constitution & Laws.

Respectfully submitted,

By: Henry Anderson

Henry Anderson
Appellant pro se.

NOTICE OF RIGHT TO CONSENT TO THE EXERCISE OF CIVIL JURISDICTION BY A MAGISTRATE AND APPEAL OPTION

In accordance with the provisions of Title 28, U.S.C. Section 636(c), you are hereby notified that the United States Magistrates of this district court, in addition to their other duties, upon the consent of all parties in a civil case, may conduct any or all proceedings in a civil case, including a jury or non-jury trial, and order the entry of a final judgment.

You should be aware that your decision to consent or not to consent to the referral of your case to a United States magistrate must be entirely voluntary. Only if all the parties to the case consent to the reference to a magistrate will any judge or magistrate be informed of your decision.

An appeal from a judgment entered by a magistrate may be taken directly to the United States Court of Appeals for the Ninth Circuit in the same manner as an appeal from any other judgment of a district court. Alternatively, upon consent of all parties, an appeal from a judgment entered by a magistrate may be taken directly to a district judge. Cases in which an appeal is taken to a district judge may be reviewed by the United States Court of Appeals for the Ninth Circuit only by way of petition for leave to appeal.

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

Plaintiff,	)	
	)	Civil No.
vs.	)	
	)	CONSENT TO PROCEED BEFORE A
	)	UNITED STATES MAGISTRATE
	)	
Defendant.	)	

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE

In accordance with the provisions of Title 28 U.S.C. Section 636(c), _____ by counsel, consents to have a United States Magistrate conduct any and all further proceedings in this case, including trial, and order the entry of a final judgment.

DATED this _____ day of _____, 19____.

_____

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

CIVIL MINUTES - GENERAL

Case No.: CIV. 85-1145-JU Date: Sept. 25, 1985
Title: Anderson v Oregon State Bar

DOCKET ENTRY

ORDER THAT THIS CASE IS REASSIGNED TO JUDGE GEORGE E. JUBA FOR TRIAL AND ALL FURTHER PROCEEDINGS. THIS ASSIGNMENT IS MADE BY THE CALENDAR MANAGEMENT COMMITTEE PURSUANT TO THE COURT'S ASSIGNMENT PLAN.

INSTRUCTIONS TO PARTIES:

This case has been assigned to JUDGE GEORGE E. JUBA for trial and